

ICPS newsletter[®]

Re-privatization needs to be carefully thought

Participants at a roundtable called “Re-Privatization: Costs and Benefits” were generally negative about the idea of revisiting the results of Ukraine’s privatizations so far, a topic that is being actively debated among Ukrainians. Among the key drawbacks mentioned are the risk of undermining confidence in Ukrainian markets and a lack of formal criteria to decide which assets are suitable for re-privatization. State Property Fund Chair Mykhailo Chechetov, VR Deputy Liudmyla Kyrychenko, who is also a member of the Rada’s Ad Hoc Privatization Oversight Commission, and Oleksandr Paskhaver, Director of the Center for Economic Development presented the views of various interest groups

- a possible lack of transparency in the process of reviewing privatization agreements because of the lack of clear criteria for determining the illegality of a given privatization.

Government policy has changed

Speaking at the roundtable, SPF Chair **Mykhailo Chechetov** quoted President Yushchenko as saying that re-privatization or nationalization would not become state policy in Ukraine. He also said that returning privatized assets into state ownership would spoil Ukraine’s investment image.

“Current privatization legislation limits participation in privatization tenders,” said Mr. Chechetov, which he considers restrictive of competition. He explained these restrictions as being in previous privatization policy, which has now been changed. Mr. Chechetov described current privatization policy as maximally open tenders and the broadest possible competition to ensure the best selling price for assets that are being privatized.

As to the re-privatization of KryvorizhStal, the country’s largest steel plant, Mr. Chechetov said that the process would be as civilized and correct as possible from a legal point-of-view. The issue of compensating the current owners would be settled in a civilized manner as well. According to Mr. Chechetov, the Fund understands that the more objects fall under re-privatization, the worse the investment climate in the country will be. “Decisions will be well-reasoned,” he said. “I would like to see instances of re-privatization be the exception rather than the rule.”

The sale of KryvorizhStal did not violate Ukrainian law

Deputy **Liudmyla Kyrychenko**, a member of the Party of the Regions faction on the VR Ad Hoc Privatization Oversight Commission, called re-privatization “a shock” to the country and to investors and she considers re-privatization a purely political decision.

The re-privatization of state-owned assets that were sold illegally was one of the key themes in Viktor Yushchenko’s election campaign. Now that he has been elected president, these election promises should become government policy. The question whether this particular policy will be beneficial for Ukraine was discussed at a roundtable called “Re-Privatization: Costs and Benefits,” organized on 14 February 2005 by the Management Through Public Intercourse Agency and the International Centre for Policy Studies. Representatives of the central government, the Verkhovna Rada, foreign embassies, and business associations, as well as independent experts and journalists from major media outlets took part in the event.

The president’s election promise

“Ten Steps Towards the People,” the election platform of Candidate Yushchenko, said that while Mr. Yushchenko did not support a new redistribution of property, he did stand for paying a fair market price for assets that were privatized for bargain basement prices by oligarchs. On 4 February 2005, the Verkhovna Rada approved the Government Program of Premier Yulia Tymoshenko, called “Towards the People.” According to this program, the Government will “review the conditions and results of privatization tenders for specific objects where it appears that buyers have failed to fulfill or have improperly fulfilled their commitments, and where privatization procedures were violated—in particular with respect to the participation of other potential buyers in tenders and in setting starting prices—and where legislation may have been breached in any other manner.”

The Government’s first announcements of a possible review of privatization results listed up to 30 enterprises, which included, in addition to KryvorizhStal, PavlohradVuhillia, KrasnodonVuhillia, Severodonetsk Azot, Sverdlovsk Machine-Building, Kherson Cotton, and a number of companies under UkrRudProm, the state joint stock ore company. Meanwhile, Premier Tymoshenko’s latest statements have indicated that re-privatization could potentially affect some 3,000 objects, that is, all the companies privatized in the last five years.

ICPS expert **Andriy Blinov** presented ICPS assessment of the positive and negative consequences of re-privatization at the roundtable. In his opinion, the potential positive impact includes:

- an increase in Budget revenues;
- greater transparency in any repeat tenders;
- growing public trust in the government as election promises are fulfilled;
- the strengthening of the role and independence of the judiciary, as the final decisions will most likely be made in the court system.

But among the negative consequences will be, first of all, loss of confidence in Ukraine among investors, as well as:

- the possibility that prominent FIGs will block any repeat privatizations;
- a worsening in the quality of political competition in Ukraine if the re-privatization campaign is aimed at persecuting those in the new opposition;

"Today, nobody's talking about finding a more effective investor or stabilizing the economy," she said. "Today, it's all just politicking." In her opinion, the uncertainty created by talk of re-privatization is undoubtedly a negative factor. "The president said that 150 strategic companies will be taken back," she explained. "Which companies was he talking about? Nobody knows. How does the government plan to do this and what criteria will it use?"

Ms. Kyrychenko specifically pointed out that all the violations related to Kryvorizhstal privatization were conditioned by the law that governed this privatization, so the privatization could not be considered illegal. She said it was not acceptable to change the rules of the game. "If we change conditions to suit every Government and every political force, it will all end badly and undermine the trust of foreign investors that we worked so hard to win."

It's easier to start re-privatization than to stop it

Oleksandr Paskhaver, Director of the Center for Economic Development, also considered the switch from just talking about re-privatization to actually doing it a shock. "When politicians say that re-privatization will be limited one way or another, I would like to point out that politicians can make their plans, but things like this can take on a life of their own. Historical process tend to be easy to start, but hard to stop."

Mr. Paskhaver expanded: "The new buyers of these companies will benefit, but those who carry out the re-privatization will be blamed for any negative consequences. This means that those actually doing the re-privatization need to know how it will end for them personally."

According to this independent expert, one major risk with initiating re-privatization is that it could end up being extended to absolutely all assets that were privatized earlier. "Every regional official will have his own Kryvorizhstal and there'll be no way to stop it. A day ago, I was curious to hear in the news that a certain official in Kharkiv stated that a cinema was improperly privatized and now it has to be re-privatized. This is only the beginning."

According to Mr. Paskhaver, only the new owners will benefit from re-privatization. "There is widespread public opinion that returning an object into state ownership will contribute to a fairer distribution of the company's profits, but that is simply not true," said the expert. "Recent years have

Tender to train local officials

The "People's Voice" project announces a tender to hold six workshops for local government officials in each of the project's six participating cities. The first three trainings should be held during March–May, the rest during September–November 2005.

To participate, your organization must:

- be a registered legal entity;
- have experience in developing and holding workshops and seminars for local government officials;
- provide qualified trainers and consultants and high-quality training materials;
- have experience working with international technical assistance projects.

The winning organization will be required to:

- hold consultations with local government officials in the six cities involved in this project with the support of "People's Voice" administrative group, in order to identify training needs;
- determine a topic for six workshops for local government officials in each of these six cities based on these consultations and agree the topic with the local representatives and the "People's Voice" administrative group;
- prepare a workshop schedule for local officials in each of the six cities and agree it with the local government bodies and the "People's Voice" administrative group;
- prepare and hold six workshops for local government officials in each of the six cities according to the approved schedule;

- prepare homework assignments for participants in all workshops and provide support during the assignment period;
- prepare and publish a reference publication on key issues of municipal government. The structure and contents of the publication should be agreed with the "People's Voice" administrative group.

Organizations who would like to participate in this tender should submit their applications to the "People's Voice" project by post, fax or e-mail before 26 February 2005.

For more information on the terms of participation, visit the ICPS site at: <http://www.icps.kiev.ua/info.html?nid=8> (in Ukrainian). For other information on participating, contact Volodymyr Hnat, coordinator of the "People's Voice" project training programs and local initiatives, at: vul. Pymonenka 13A, Kyiv, Ukraine 04050. Tel.: (380-44) 236-4116, 236-4196, fax: (380-44) 236-4668, e-mail: vhnat@icps.kiev.ua.

"People's Voice" aims at improving the quality of municipal services provided to citizens by their local governments. The project is being carried out in six Ukrainian cities: Alchevsk, Chernihiv, Kolomyia, Komsomolsk, Lutsk, and Makiyivka. "People's Voice" is being implemented by the World Bank and PADCO, a consultancy, along with the International Centre for Policy Studies (ICPS). Financing is provided by the Canadian International Development Agency (CIDA). For more about the project, visit our site at: <http://www.pvp.org.ua/eng>.

shown just how many different schemes there are for moving profits out of state-owned companies." According to Mr. Paskhaver, the entire country will lose, because re-privatization entails numerous risks, which immediately devalues the country's assets. "This is why our businesses are cheaper than Russian ones," he said, "never mind European ones."

If the Government does start re-privatization, Mr. Paskhaver recommended restricting it to those agreements where funds went into the shadows to sponsor the recent election campaign. He said it made more sense to shift the issue from privatization to illegal use of funds for political purposes. Another way to reduce the risks of re-privatization, according to Mr. Paskhaver, would be to call for

additional payments for acquired assets. ICPS experts provided an example of such supplements in international experience: in 1997, British companies who had benefited from Margaret Thatcher's privatizations in the early 1980s were forced to pay a special Windfall Tax. ■

Materials from the introductory presentation to the debate (in Ukrainian) can be downloaded from the ICPS internet library at: <http://www.icps.kiev.ua/library.html?1>.

The International Centre for Policy Studies promotes the public policy-making process in Ukraine. One of its components is open debate of key issues with representatives of all stakeholders. For more information, contact Andriy Blinov by telephone at (380-44) 236-1292 or via e-mail at ablinov@icps.kiev.ua.

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